CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

COUR EUROPÉENNE DES DROITS DE L'HOMME
EUROPEAN COURT OF HUMAN RIGHTS

FOURTH SECTION

CASE OF JEDAMSKI v. POLAND

(Application no. 29691/96)

JUDGMENT

STRASBOURG

26 July 2001

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Jedamski v. Poland,

The European Court of Human Rights (Fourth Section), sitting as a Chamber composed of:

Mr G. Ress, *President*,
Mr A. Pastor Ridruejo,
Mr L. Caflisch,
Mr J. Makarczyk,
Mr V. Butkevych,
Mr J. Hedigan,
Mrs S. Botoucharova, *judges*,
and Mr V. Berger, *Section Registrar*,

Having deliberated in private on 29 June 2000 and 5 July 2001,

Delivers the following judgment, which was adopted on the last-mentioned date:

PROCEDURE

1. The case originated in an application (no. 29691/96) against the Republic of Poland lodged with the European Commission of Human Rights ("the Commission") under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Polish national, Grzegorz Jedamski ("the applicant"), on 1 June 1995.

2. The Polish Government ("the Government") were represented by their Agent, Mr K. Drzewicki, of the Ministry of Foreign Affairs.

3. The applicant alleged, in particular, that in two sets of civil proceedings in which he had been involved the Polish courts had not respected his right to a "hearing within a reasonable time".

4. The application was transmitted to the Court on 1 November 1998, when Protocol No. 11 to the Convention came into force (Article 5 § 2 of Protocol No. 11).

5. It was subsequently allocated to the Fourth Section of the Court (Rule 52 § 1 of the Rules of Court). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1 of the Rules of Court.

6. By a decision of 29 June 2000, the Chamber declared the application admissible.

7. The applicant and the Government each filed observations on the merits (Rule 59 § 1).

8. The Chamber having decided, after consulting the parties, that no hearing on the merits was required (Rule 59 § 2 *in fine*).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

A. Proceedings relating to the claim for payment

9. On 22 December 1992 the Łódź Bank of Development (*Łódzki Bank Rozwoju*), submitting a bill of exchange payable to bearer which required the applicant to pay on demand 19,777,167,300 old Polish zlotys (PLZ), asked the Łódź District Court (*Sąd Rejonowy*) to issue an order for payment against him.

10. On 14 January 1993 the court granted the plaintiff's request and ruled that the applicant was to pay the sum in question within seven days from the date of service of the order or, alternatively, within the same time-limit, to lodge an appeal against the said order.

11. On 23 January 1993 the applicant lodged an appeal with the Łódź District Court, submitting that the order was premature since the bill of exchange had been endorsed by him to secure the payment of a loan which, according to the terms of the relevant agreement, was to have been paid off on 31 December 1992. He also requested the court to stay the enforcement of the order.

12. On 28 January 1993 the plaintiff asked the court to issue a writ of execution in respect of the order of 14 January 1993. On 1 February 1993 the court issued a provisional writ of execution (i.e. under which assets, by way of security, could be attached to protect claims). The final writ of execution was made on 12 May 1993. Subsequently, on an unknown date, the plaintiff asked the court to issue two further such writs, maintaining that it had to institute enforcement proceedings against the applicant before several different courts because his real and personal property was situated in various towns.

13. On 12 October 1993 the case was referred to the Łódź Regional Court (*Sąd Wojewódzki*) which, under the rules of civil procedure governing jurisdiction, was competent to deal with the case in ordinary civil proceedings.

14. On 20 October 1993 the Łódź Bank of Development was taken over by the BIG Bank SA (*Bank Inicjatyw Gospodarczych SA*) and, from that date onwards, the BIG Bank SA replaced it as a plaintiff in the proceedings.

15. Later, from 8 March to 29 August 1994 the proceedings were stayed at the parties' joint request.

16. On 23 September 1994 the Łódź Regional Court issued one writ of execution and dismissed the remainder of the plaintiff's application. On 23 November 1994, on the applicant's appeal, the Łódź Court of Appeal

(*Sąd Apelacyjny*) upheld the first-instance decision. On an unknown later date the case-file was transmitted to the Regional Court.

17. On 16 June 1995 the Regional Court ordered that evidence be obtained from an expert in banking accountancy. The expert submitted his report to the court on 29 August 1995. After having served copies of the report on the parties, the court listed a hearing for 20 December 1995.

18. At that hearing, on the applicant's request, the court stayed the proceedings. The applicant produced documents showing that, in the meantime, on 13 December 1994, his wife had sued both parties to the proceedings in the Łódź Regional Court. She was seeking the annulment of the relevant loan agreement. The plaintiff bank first unsuccessfully opposed the application for a stay and then appealed against the decision staying the proceedings. The appeal was rejected on 11 March 1996.

19. Meanwhile, on 26 December 1995, the applicant asked the court to lift the stay, in his words, "immediately". He maintained that the claim for payment against him could be determined without a prior ruling on whether or not the loan agreement had validly been concluded.

20. On 9 February 1996 the applicant asked the Regional Court to resume the proceedings. On 15 April 1996 the court refused to lift the stay because it considered that the determination of the applicant's case depended on the outcome of the proceedings relating to the annulment of the loan agreement and that there was, therefore, a sufficient basis for the stay, as defined by Article 177 § 1 (1) of the Code of Civil Procedure. The applicant did not contest this decision.

21. During the stay of the proceedings the trial court made several procedural orders. It stayed the enforcement of the order of payment (by a decision of 13 May 1996 which was upheld on appeal on 12 July 1996). It dealt with the applicant's request for the order securing the claim to be amended and rendered in that respect a decision on 2 December 1996. It also ruled on two plaintiff's requests for the decision staying the enforcement of the order of payment to be quashed (giving decisions of 15 April 1996 and 29 January 1998 respectively).

22. On 13 October 1998 the applicant informed the court that the proceedings concerning his wife's claim for declaring the loan agreement null and void had been terminated. He asked the court to resume the proceedings and to fix a hearing date.

23. The court listed a hearing for 17 February 1999. On 23 February 1999 it gave judgment and awarded the plaintiff 1,954,097.49 new Polish zlotys (PLN). It also awarded the costs of the proceedings against the applicant. Both parties appealed.

24. On 19 October 1999 the Łódź Court of Appeal rejected the plaintiff's appeal as it considered that it had no legal interest in challenging the judgment granting the relief requested. It further dismissed the applicant's appeal.

25. On 2 December 1999 the applicant filed a cassation appeal (*kasacja*) with the Supreme Court (*Sąd Najwyższy*). According to information obtained by the Court from the registry of the Civil Chamber of the Supreme Court, the applicant's case was registered under file no. II CKN 25/00 and his cassation appeal was dismissed on 26 January 2001.

B. Proceedings relating to the applicant's complaint against the actions taken by the Bailiff of the Warsaw District Court

26. On 11 February 1993, acting under the provisional writ of execution of 1 February 1993 (see also paragraph 12 above) and on a request by the creditor, i.e. the Łódź Bank of Development, the Bailiff of the Warsaw District Court (*Komornik Sądu Rejonowego*) made an order attaching the applicant's shares in the Bank of Development of Export (*Bank Rozwoju Eksportu*) and cash (an unknown sum) deposited in the Central Brokerage Bureau of the Bank PeKaO S.A. (*Centralne Biuro Maklerskie Banku Polska Kasa Opieki S.A.*), by way of security for the creditor's claim for payment of PLZ 19,777,167,300 pending in the Łódź Regional Court. On 26 February 1993 the applicant lodged a complaint against the actions taken by the bailiff (*skarga na czynności komornika*), relying on Article 767 of the Code of Civil Procedure. On 10 September 1993 the court dismissed the applicant's complaint.

27. On 8 September 1993, acting under the final writ of execution of 12 May 1993 (see also paragraph 12 above) and on a request by the BIG Bank SA, the Bailiff of the Warsaw District Court instituted enforcement proceedings against the applicant, with a view to selling the assets attached on 11 February 1993. According to the applicant, the total value of the attached assets was about 2,000,000 US dollars, that is to say, some 7,000,000 Polish zlotys (PLN).

28. On 20 September 1993 the applicant, again relying on Article 767 of the Code of Civil Procedure, made the second complaint against the actions taken by the bailiff in the enforcement proceedings to the Warsaw District Court. He submitted that those actions had been incorrect and unlawful since the bailiff had enforced the order for payment of 14 January 1993 against matrimonial property, whereas the final writ of execution had been issued against the applicant alone. Moreover, the civil claim in question had not yet been determined as the relevant proceedings were pending before the Łódź Regional Court because he had appealed against the order for payment of 14 January 1993. He, therefore, asked the court to quash the attachment and to stay the enforcement proceedings.

29. Shortly afterwards, the applicant's case was registered in the Warsaw District Court under file no. II Co 248/93.

30. On 2 April 1994 the court decided that information be obtained as to whether the applicant had appealed against the order for payment of

14 January 1993 and whether in the relevant proceedings any decision staying the enforcement of that order had been made.

31. On 24 June 1994 the court ordered that the applicant's case be joined with the case registered under file no. II Co 47/94 (the latter case concerned the creditor's (the BIG Bank SA's) request for the applicant's attached shares to be sold on the Warsaw Stock Exchange) and assigned to the judge-rapporteur dealing with that case. On 18 July 1994 the court quashed its previous order and decided that the joinder of the cases be reversed, that is, that the case no. II Co 47/94 be joined with the applicant's case and assigned to the judge-rapporteur dealing with the applicant's case. On 17 October 1994 the cases were assigned to another judge because the previously appointed rapporteur had resigned.

32. On 8 February 1996 the Warsaw District Court, sitting *in camera*, rejected the applicant's complaint of 20 September 1993. The court considered that the applicant was again challenging the actions taken by the bailiff on 11 February 1993, in particular the attachment order made by the bailiff on that day. The Court went on to find that the complaint against the attachment order had already been examined, and finally dismissed, by the same court on 10 September 1993. Moreover, in the court's opinion, the applicant had clearly lodged his second complaint out of the seven-day time-limit prescribed by Article 767 of the Code of Civil Procedure. In any event, the Court added, the matter had finally been adjudicated on 10 September 1993 and, according to the principle of *res iudicata*, the second complaint had to be rejected on formal grounds. A copy of that decision was served on the applicant on 21 March 1996.

33. On 28 March 1996 the applicant appealed to the Warsaw Regional Court, submitting that the court of first instance had manifestly confused his two complaints: the complaint of 26 February 1993 against the attachment of his shares ordered by way of security and that of 20 September 1993 against the actions taken by the bailiff (i.e. those taken with a view to selling the attached shares) on the basis of the final writ of execution in the subsequent enforcement proceedings. Later, a copy of the applicant's appeal was served on the creditor, which lodged a reply to the appeal on 6 May 1996.

34. On 18 July 1996 the Warsaw Regional Court, sitting *in camera*, quashed the contested decision and remitted the case to the District Court. The appellate court acknowledged that the lower court had failed to note that the applicant had filed two complaints, complaints which concerned two evidently separate actions taken by the bailiff.

35. On 27 December 1996 the Warsaw District Court, relying on the principle of *res iudicata*, refused to examine the complaint in so far as it amounted to the objection to the attachment order of 14 February 1993. It dismissed the remainder of the complaint, finding that the arguments raised by the applicant, in particular those concerning the enforcement of the order

for payment while the civil dispute over the same claim was pending, had to be rejected. It found that the bailiff's actions had been correct and lawful as he had acted under the valid writ of execution and the means of enforcement applied by him had a legal basis.

36. On 21 April 1997, on the applicant's appeal, the Warsaw Regional Court upheld the first-instance decision.

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. Order for payment

37. Pursuant to Article 492 of the Code of Civil Procedure, an order for payment, if issued on the basis of a bill of exchange, is enforceable notwithstanding that a defendant has appealed against it, and that proceedings relating to the final determination of the claim arising from the endorsement of the bill are still pending.

A district court is competent to issue an order for payment; however, on an appeal by a defendant, the case may subsequently be referred to a regional court if, in view of the value of the claim, that court is competent to deal with the case in ordinary civil proceedings.

B. Complaint against actions taken by a bailiff in enforcement proceedings

38. Under Article 767 et seq. of the Code of Civil Procedure a debtor may lodge a complaint against any action taken by a bailiff in enforcement proceedings. He may, in particular, seek a ruling as to whether the bailiff's actions were correct, i.e. taken in accordance with a writ of execution, and lawful, i.e. whether the means of enforcement applied in a given case were provided by law. Such a complaint is examined by a district court under the provisions of Volume II of the Code of Civil Procedure relating to enforcement proceedings.

C. Stay of civil proceedings

39. Under Article 173 et seq. of the Code of Civil Procedure the court may stay civil proceedings either *ex officio* or at a party's request.

Article 177 § 1 (1) provides:

> "1. The court shall *ex officio* stay the proceedings:
>
> (1) if the determination of the case depends on the outcome of other pending civil proceedings;"

Article 180 § 1 of the Code provides, in so far as relevant:

> "1. The court shall *ex officio* resume the proceedings if the reason for staying them no longer exists, in particular if:
>
> ...
>
> (4) a final decision has been given in the proceedings on whose outcome the determination of the case depends, however, if circumstances so require, the court may resume the proceedings before [such a final decision is given]."

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

40. The applicant complained that in both sets of proceedings in which he had been involved the Polish courts had not respected his right to a "hearing within a reasonable time" and alleged a breach of Article 6 § 1 which, in its relevant part, provides:

> "In the determination of his civil rights and obligations ..., everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal..."

A. The Court's case-law

41. The Court will assess the reasonableness of the length of the proceedings complained of in the light of the particular circumstances pertaining to the cases in which the applicant was involved. It will have regard the criteria laid down in its established case-law, in particular the complexity of the case, the conduct of the applicant and of the relevant judicial authorities, and the importance of what was at stake for the applicant in the litigation (see, among many other examples, the Styranowski v. Poland judgment of 30 October 1998, *Reports of Judgments and Decisions* 1998-VIII, p. 3376, § 48).

B. Proceedings relating to the claim for payment

1. Period to be taken into consideration

42. The proceedings started on 22 December 1992 and ended on 26 January 2001 (see paragraphs 9 and 25 above).

The Court consequently finds that the proceedings lasted for eight years and a little more than one month.

However, in its decision on the admissibility of the application the Court has already held that – although it will have regard to the stage of the proceedings reached on 1 May 1993, the date on which Poland's declaration recognising the right of individual petition took effect – the period which elapsed prior to that date lies outside its jurisdiction *ratione temporis*.

In assessing compliance with the "reasonable time" requirement, the Court will accordingly take into account the period of seven years and nearly nine months that elapsed after 1 May 1993.

2. *Arguments of the parties*

43. The applicant submitted that the case was not complex at all because the only issue to be determined was that of whether the bill of exchange on which the claim had been based had been endorsed properly.

The determination of the case had not, in the applicant's view, depended on a ruling on the claim for declaring the relevant loan agreement null and void (which had been brought by his wife) but, as it had clearly emerged from the judgments of the Regional Court and the Court of Appeal, on the validity of the bill of exchange.

44. The applicant acknowledged that he had made an application to stay the proceedings. Yet, in his view, nothing had prevented the trial court from resuming them promptly since, first of all, he had very shortly afterwards asked the court to lift the stay and had then twice requested the Regional Court to resume the proceedings. Secondly, the plaintiff bank had appealed against the stay and the court could have reconsidered its previous decision. Thirdly, pursuant to Article 180 § 1 (4) of the Code of Civil Procedure, the court could have resumed the proceedings at any time.

45. In conclusion, the applicant contended that, given the fact that the result of the proceedings would have very serious consequences for his property rights, the period of more than eight years for the determination of a simple case had to be regarded as incompatible with the notion of "reasonable time" laid down in Article 6 § 1.

46. The Government disagreed and argued that particularly complex problems were involved in the case. They stressed that the Regional Court had had to obtain expert evidence and to consider the claim in the light of the findings made in the proceedings filed by the applicant's wife, proceedings in which she had sought the annulment of the loan agreement.

Since the determination of the claim against the applicant had depended on the outcome of the latter proceedings, the Regional Court had, in the Government's opinion, made a correct decision to stay the proceedings. In consequence, the period of more than three years during which they had been stayed could not be attributed to the conduct of the authorities.

The Government also maintained that the applicant had substantially contributed to the length of the trial because he had asked the Regional Court to stay it until his wife's case had been determined.

They accordingly contended that there had been no violation of the applicant's right to a "hearing within a reasonable time".

3. *The Court's assessment*

47. The Court observes that even though the courts of three instances dealt with the case and the proceedings were stayed for about three years, this cannot justify the overall length of the time the relevant authorities needed to hear the case that does not appear to have been of more than average complexity. The Court is not persuaded by the Government's contention that complex issues of fact and law were involved in the proceedings. In particular, the Court does not consider that the fact that the courts needed to obtain expert evidence or that they waited for the completion of other proceedings could render the case difficult.

48. Nor does the Court find any indication that the applicant's conduct contributed to the length of the proceedings.

In that context, the Court notes that the stay of the proceedings did not, as the Government maintained, result from a dilatory conduct on the part of the applicant. It is true that he made an application for a stay. Yet the ultimate decision as to what course the proceedings would follow rested with the relevant courts which – despite the applicant's further application for the stay to be lifted and his opponent's appeal to the same effect – came to the conclusion that the trial should be stopped pending the determination of another claim (see paragraphs 18-19 above). The applicant's subsequent request for the proceedings to be resumed was of no effect either (see paragraph 20 above).

It cannot therefore be said that the applicant was responsible for the fact that for some three years the case was suspended.

49. In consequence and having regard to its case-law on the subject, the Court considers that the length of the proceedings in issue did not satisfy the "reasonable time" requirement.

The Court accordingly holds that there has been a violation of Article 6 § 1.

C. Proceedings relating to the applicant's complaint against the actions taken by the Bailiff of the Warsaw District Court

1. *Period to be taken into consideration*

50. The proceedings began on 20 September 1993, when the applicant lodged a complaint against the bailiff's order instituting enforcement

proceedings, and ended on 21 April 1997, when his appeal was rejected by the Warsaw Regional Court (see paragraphs 26 and 36 above). They accordingly lasted three years and seven months.

2. *Arguments of the parties*

51. The applicant underlined that the case had been very simple. The courts had to deal with only one issue, namely that of whether the actions taken by the bailiff had had a legal basis. The case had been examined in a written procedure, without a single hearing being held. Moreover, the courts, in order to give a ruling, had merely needed to examine the case-file.

It was true, the applicant added, that the case had twice been dealt with by the courts of two instances. However, that had not been the consequence of its complexity but of the fact that the first decision given by the Warsaw District Court had been manifestly erroneous because the court had confused his two separate complaints against two different orders made by the bailiff on various dates. That event had, in the applicant's opinion, substantially prolonged the case which did not necessarily have to be examined on two occasions by the Court of Appeal.

52. The applicant further maintained that, despite the fact that the case had been simple, much had been at stake for him in the proceedings, both in terms of the value of the assets attached and of the potential serious consequences for his property rights in case of putting those assets on sale.

In his submission, no account had been taken of that factor by the relevant authorities. On the contrary, it had taken the Warsaw District Court two years and five months to make the first – although, as already mentioned, fundamentally wrong – decision. Such a long period of inactivity on the part of the court had not, in the applicant's view, been compatible with the "reasonable time" requirement laid down in Article 6.

53. The Government, for their part, submitted that the total length of the proceedings had not been so excessive as not to comply with the said requirement.

In the Government's opinion, the case was complex because the applicant's attached property had been located in various places.

They considered that the applicant had contributed to the length of the dispute because it had been in his best interest to prolong and, eventually, to stay the enforcement proceedings against him.

Furthermore, the Government disagreed with the applicant as to the importance of the issue at stake in the litigation. In their view, the applicant had property valued at a few dozens billions of old Polish zlotys and what was at the stake for him, seen from that perspective, had not been significant.

In sum and stressing that the overall length of the proceedings had not been inordinately excessive, the Government asked the Court to hold that there had been no violation of Article 6 § 1.

3. *The Court's assessment*

54. The Court – while it accepts that in some cases the period of three years and seven months for determining a civil dispute may be regarded as not excessively long – cannot, in the circumstances of the present case, share the Government's opinion.

The Court notes in the first place that it does not appear that difficult problems were involved in the proceedings. In particular, it does not emerge from the facts of the case as submitted by the parties that the Warsaw District Court, apart from dealing with a few simple procedural questions at the initial phase of the proceedings, had, for instance, to obtain copious evidence or to resolve any other issue than that of whether the actions taken by the bailiff in the enforcement proceedings against the applicant had been correct and lawful (see paragraphs 28-32, 35 and 38 above).

55. As to the question of how important were the issues at stake in the dispute, the Court would reiterate that it has already found, in its decision on the admissibility of the application, that the result of the proceedings in issue entailed far-reaching repercussions for the applicant's property rights because the claim for payment pending against him, even though not yet determined at the time, could have been executed by the attachment and subsequent sale of his assets.

56. Furthermore, the Court does not find any indication that the applicant's conduct caused any discernible delays in the proceedings. It does find, however, that the way in which the relevant authorities handled the case resulted in a substantial delay of some two years and five months at the initial stage of the proceedings (see paragraphs 28-32 above).

In that respect, the Court observes that the Government have not supplied any convincing explanation for that period of inertia, a period which – if counted against the overall duration of the proceedings and if gauged with reference to what was at stake in those proceedings – cannot be considered compatible with the "reasonable time" requirement.

57. The Court accordingly holds that there has been a violation of Article 6 § 1.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

58. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

59. Under the head of both pecuniary and non-pecuniary damage, the applicant claimed PLN 99,846,745. That sum, according to his calculation, was the multiplied by ten value of his and his wife's assets attached in the course of the relevant enforcement proceedings.

He further maintained that on account of the excessive length of the proceedings relating to the claim for payment, he was deprived of any possibility of disposing of those assets, putting them in a business activity or buying shares at the stock exchange.

As regards the claim for non-pecuniary damage, the applicant underlined that as a result of the excessive length of both proceedings in issue he suffered considerable frustration, stress and disappointment.

60. The Government did not address the issue of just satisfaction.

61. The Court notes that the applicant's claim for pecuniary damage is mostly based on lost business opportunities which are speculative in nature. It cannot inquire into what the outcome would have been if the applicant had obtained final decisions on his civil rights within a reasonable time. The Court accordingly dismisses the claim.

62. On the other hand, the Court accepts that the applicant has certainly suffered some non-pecuniary damage, such as distress resulting from the protracted length of the two sets of proceedings in his cases. Having regard to its case-law on the matter (see, for instance, the Podbielski v. Poland judgment of 30 October 1998, *Reports of Judgments and Decisions* 1998-VIII, p. 3399, § 48) and making its assessment on an equitable basis, the Court awards the applicant PLN 20,000 under this head.

B. Costs and expenses

63. The applicant did not seek to be reimbursed for any costs or expenses in connection with the proceedings before the Court.

C. Default interest

64. According to the information available to the Court, the statutory rate of interest applicable in Poland at the date of adoption of the present judgment is 30 % per annum.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Holds* that there has been a violation of Article 6 § 1 of the Convention on account of the excessive length of the proceedings relating to the claim for payment against the applicant;

2. *Holds* that there has been a violation of Article 6 § 1 of the Convention on account of the excessive length of the proceedings concerning the applicant's complaint against the actions taken by the bailiff;

3. *Holds*
(a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the Convention, 20,000 (twenty thousand) Polish zlotys in respect of non-pecuniary damage;
(b) that simple interest at an annual rate of 30 % shall be payable from the expiry of the above-mentioned three months until settlement;

4. *Dismisses* the remainder of the applicant's claims for just satisfaction.

Done in English, and notified in writing on 26 July 2001, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Vincent BERGER Registrar	Georg RESS President